

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,
Plaintiff,

v.

GARY L. MASON,
Defendant.

No. CR-08-141-FVS

ORDER

THIS MATTER comes before the Court without oral argument based upon Gary Mason's "Motion for Modification of Sentence Pursuant to 18 U.S.C. § 3582(c)(2)." He is representing himself. The United States is represented by Assistant United States Attorney Aine Ahmed.

BACKGROUND

On February 23, 2009, Gary Mason entered pleas of guilty, pursuant to Federal Rule of Criminal Procedure 11(c)(1)(C), to two counts of the crime of possession with intent to distribute cocaine base, *i.e.*, "crack cocaine." 21 U.S.C. § 841(a)(1). On June 9, 2009, the Court accepted the plea agreement and sentenced Mr. Mason to a term of 96 months imprisonment. He is currently serving that term. He requests a sentence reduction pursuant to the terms of the Fair Sentencing Act of 2010 ("FSA"), Pub.L. No. 111-220, 124 Stat. 2372. The United States objects.

RULING

"In August 2010, Congress enacted the Fair Sentencing Act (FSA), Pub.L. No. 111-220, 124 Stat. 2372, which modified the penalties for crack cocaine offenses to remedy sentencing disparities between crack and powder cocaine." *United States v. Dunn*, 728 F.3d 1151, 1154 (9th Cir.2013) (citing *Freeman v. United States*, 564 U.S. ----, 131 S.Ct. 2685, 2694, 180 L.Ed.2d 519 (2011)). The effective date of the FSA is August 3, 2010. *United States v. Charles*, 749 F.3d 767, 769 (9th Cir.2014). The FSA does not apply retroactively to persons who were sentenced prior to that date. *Id.* Mr. Mason is one such person. He was sentenced on June 9, 2009. Consequently, he is not eligible for relief under the FSA. His request for such relief must be denied.

IT IS HEREBY ORDERED:

Gary Mason's "Motion for Modification of Sentence Pursuant to 18 U.S.C. § 3582(c)(2)" (**ECF No. 107**) is denied.

IT IS SO ORDERED. The District Court Executive is hereby directed to enter this order and furnish copies to Mr. Mason and to counsel for the United States.

DATED this 2nd day of September, 2014.

s/ Fred Van Sickle
Fred Van Sickle
Senior United States District Judge